

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	
	:	ORDER OF VACATUR OF
-v.-	:	SECOND PRELIMINARY ORDER
	:	OF FORFEITURE AS TO
ALBERTO WILLIAM VILAR, <i>et al.</i> ,	:	SUBSTITUTE ASSETS
	:	AND PARTIAL VACATUR OF
Defendants.	:	POST-CONVICTION
	:	RESTRAINING ORDER
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	:	05 Cr. 621 (RJS)
SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
	:	
Plaintiff,	:	05 Cv. 5231 (RJS)
	:	
-v.-	:	
	:	
AMERINDO INVESTMENT ADVISORS, INC.,	:	
<i>et al.</i>	:	
	:	
Defendants.	:	
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	:	
In the matter of the Application of LISA MAYER	:	
and DEBRA MAYER,	:	
	:	
Petitioners.	:	12 Cv. 5240 (RJS)
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WHEREAS, on or about August 15, 2006, ALBERTO WILLIAM VILAR and GARY ALAN TANAKA (together the “Defendants”) were charged in a twelve-count Superseding Indictment, S3 05-cr-621 (KMK) (the “Indictment”);

WHEREAS, the Indictment included a provision for forfeiture to the United States of substitute assets of the Defendants pursuant to Title 21, United States Code, Section 853(p);

WHEREAS, on or about November 19, 2008, a jury returned a guilty verdict against defendant Vilar on all twelve counts of the Indictment, and against defendant Tanaka on Counts One, Three and Four of the Indictment (Doc. No. 320);¹

WHEREAS, on or about October 26, 2009, the Court entered a Post-Conviction Restraining Order (the “Restraining Order”) (Doc. No. 364) which restrained, among other assets, J.P. Morgan Chase brokerage account number 102-05012 held in the name of The Trustees of the Amerindo Advisors (UK) Ltd. Ret. Benefits Scheme (the “Benefits Scheme Account”);

WHEREAS, on or about April 25, 2014, the Court entered a Preliminary Order of Forfeiture/Money Judgment against Defendants, which made final as to each defendant a joint and several money judgment in the amount of \$20,578,855.28 payable to the United States (Doc. Nos. 684, 687);

WHEREAS, on or about August 2, 2019, the Court entered a Preliminary Order of Forfeiture as to Substitute Assets (the “First Substitute Assets Order”) forfeiting all of the Defendants’ right, title and interest in the assets listed therein (Doc. No. 802);

WHEREAS, on or about December 9, 2019, the Court entered a Second Preliminary Order of Forfeiture as to Substitute Assets (the “Second Substitute Assets Order”) forfeiting all of the Defendants’ right, title and interest in the assets held in the Benefits Scheme Account (Doc. No. 848);

WHEREAS, the Defendants filed notices of appeal of the First Substitute Assets Order and the Second Substitute Assets Order;

WHEREAS, on or about September 4, 2021, defendant Vilar died;

¹ Unless otherwise noted, all docket citations are to the criminal docket, 05-cr-621.

WHEREAS, on or about October 28, 2021, the United States Court of Appeals for the Second Circuit so-ordered a stipulation withdrawing with prejudice defendant Vilar's appeals of the First Substitute Assets Order and the Second Substitute Assets Order (19-2492(L) and 19-4200(Con));

WHEREAS, on or about December 14, 2021, the government filed a motion requesting the Court to enter a global Stipulation and Order of Settlement (the "Global Settlement") which required, among other things, vacatur of the Second Substitute Assets Order and termination of the Restraining Order as to the assets in the Benefits Scheme Account (Doc. No. 992);

WHEREAS, on or about April 18, 2022, the Court entered an Order (1) granting the government's motion to vacate the Second Substitute Assets Order, (2) granting the government's motion to terminate the Restraining Order as to the assets held in the Benefits Scheme Account, and (3) ordering the government to file a proposed Order of Vacatur no later than April 28, 2022 (Doc. No. 1008);

WHEREAS, on or about April 18, 2022, the Court so-ordered the Global Settlement (Doc. No. 1009);

WHEREAS, on or about April 20, 2022, the United States Court of Appeals for the Second Circuit so-ordered a stipulation withdrawing with prejudice defendant Tanaka's appeals of the First Substitute Assets Order and the Second Substitute Assets Order (19-2602(con) and 20-421(con));

WHEREAS, the government no longer seeks to forfeit the Defendants' right, title, and interest in the assets of the Benefits Scheme Account;

WHEREAS, the government seeks to have the Second Substitute Assets Order vacated in its entirety; and

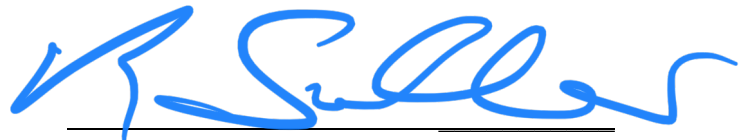
WHEREAS, the government seeks to have the Restraining Order terminated as to the assets held in the Benefits Scheme Account only;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. For the reasons set forth the Court's order dated April 18, 2022 (Doc. No. 1008), the Second Substitute Assets Order is hereby vacated in its entirety.
2. The Restraining Order is hereby vacated as to the Benefits Scheme Account only and shall remain in full force and effect in all other respects.

Dated: New York, New York
April 20, 2022

SO ORDERED:



HONORABLE RICHARD J. SULLIVAN
UNITED STATES CIRCUIT JUDGE
Sitting by Designation